

ROBERTA CROSS GUNS  
Special Assistant Attorney General  
840 Helena Avenue  
Helena, MT 59601  
406-444-2040

RECEIVED  
STATE AUDITORS  
OFFICE  
HELENA, MONTANA

2008 MAY 15 P 1:11

Attorney for Securities Department

BEFORE THE STATE AUDITOR, EX-OFFICIO COMMISSIONER OF SECURITIES  
FOR MONTANA

IN THE MATTER OF:	)	
	)	CASE NO.: C 05-09-08-273
LEO LAPTIO	)	
	)	CONSENT AGREEMENT
	)	
	)	
Respondent.	)	

---

Consent Agreement dated this 19<sup>th</sup> day of May 2008, between the Montana Securities Department ("Department"), acting pursuant to the authority of the Securities Act of Montana, § 30-10-101 *et seq.* MCA, and § 2-4-603 Montana Code Annotated; and Respondent LEO LAPITO (LAPITO).

**RECITALS**

WHEREAS, the Department has investigated certain trading activity in accounts of customers of Lapito with a view to possible violations of the Act;

WHEREAS, the Department and Lapito have investigated the matter pursuant to a customer complaint and information obtained through the Department's examination of Lapito's Montana office; and

WHEREAS, the Department and Lapito agree that the best interests of the public would be served by entering into the agreements and undertakings specified herein.

NOW THEREFORE, in consideration of the mutual undertakings herein contained, the Department and Lapito hereby agree to resolve their differences pursuant to the following terms and conditions:

**I. SUMMARY OF ALLEGATIONS**

A. The Department's investigation of securities transactions executed during the period September 1, 2003 through May 1, 2007 includes, *inter alia*, allegations that Lapito, in violation of §30-10-201, MCA, may have engaged in dishonest and unethical practices, and may have committed securities fraud in violation of §30-10-301 (1) (b) and (c), MCA.

**II. STIPULATIONS AND CONSENTS**

A. Without admitting or denying any of the allegations contained in the Department's investigation, Lapito stipulates and consents:

1. To voluntarily deposit \$150,000 into a Restitution Fund (hereafter "Fund") that will be held in escrow for not more than 60 days after its creation. The Fund shall be funded for the purpose of paying restitution to Lapito's customers identified in the Department's investigation that may have suffered economic loss as the result of the alleged practices. The Fund shall be administered and disbursed as follows:

a. The Department will send, within ten (10) days of the signing of the Consent Agreement, a letter to each of the individuals identified by the Department as eligible participants indicating they may submit a claim and release against the Fund.

- b. Eligible participants submitting a claim against the Fund will be entitled to an amount as calculated by the Department. Eligible participants will have 30 days to submit their claim against the Fund.
  - c. Six months after the last day available for eligible participants to claim against the Fund, the Fund shall be deemed closed and any excess funds remaining in the Fund shall be sent to the Investor Protection Trust for the benefit of Montana investors.
  - d. Lapito agrees to be responsible for 16.7% of the expenses associated with setting up the Restitution Fund and issuing checks to restitution fund participants.
2. To comply with the terms and conditions of this Consent Agreement and with the securities laws and regulations of Montana.
3. The applicable Statute of Limitation, §30-10-305, MCA, is tolled for two (2) years from the date of execution of this Consent Agreement with regard to the allegations set forth above. In the event Lapito violates the terms of this Consent Agreement at any time during the two-year tolling period the State Auditor's Office reserves the right to seek a fine of \$75,000 and to seek a permanent ban on registration or filings by Lapito.

B. Pursuant to the stipulations, agreements and consents of Lapito, the Department, under the authority of the Montana Securities Act and §2-4-603, Montana Code Annotated, hereby agree that:

1. The Department shall execute such documents and take such actions as are required to terminate its investigation of these matters upon the signing of this Consent Agreement.

C. All parties to this Consent Agreement agree and acknowledge:


1. This Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied. Under authority of the Securities Act, the Department hereby agrees that it will not initiate any civil or administrative actions against Lapito regarding or related to the allegations contained in the investigation of this matter. Lapito fully and forever releases and discharges the Office of the State Auditor, the elected State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries that may arise from the allegations underlying this Consent Agreement, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the Department's investigation.

DATED this 19<sup>th</sup> day of May, 2008.

MONTANA SECURITIES DEPARTMENT

By:   
Lynne Egan  
Deputy Securities Commissioner

SUBSCRIBED AND SWORN to before me this 19<sup>th</sup> day of May 2008.

  
Michelle Huftel  
Notary Public for the State of Montana  
Residing at Helena, Montana  
My commission expires March 29, 2012.

DATED this 14<sup>th</sup> day of May 2008.

  
LEO LAPITO



SUBSCRIBED AND SWORN to before me this 14<sup>th</sup> day of  
May 2008.



Michelle Olson

Signature

Michelle Olson

Notary Public for the State of Montana

Residing at Billings, Montana

My commission expires May 29, 2010.